IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO.: **CWP No.12892 of 2006 (O&M)**

DATE OF DECISION: September 25, 2006

VIJAY SINGH ...PETITIONER

VERSUS

THE FINANCIAL COMMISSIONER, HARYANA AND OTHERS. ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA.
HON'BLE MRS. JUSTICE NIRMAL YADAV.

PRESENT: MR. V.K. JAIN, SR. ADVOCATE
WITH MR. J.L. MALHOTRA, ADVOCATE
FOR THE PETITIONERS.

ASHUTOSH MOHUNTA, J.

The petitioner is aggrieved by the order (Annexure P-6) dated 28.11.2002, passed by the Commissioner, Gurgaon Division by which the partition case between the petitioner and respondent Nos.5 to 15 was ordered to be remanded to the Assistant Collector, Ist Grade, Rewari and the order (Annexure P-7) passed by the Financial Commissioner dated 19.4.2006, by which the revision filed by the petitioners was dismissed.

Counsel for the petitioner has argued that respondent No.5 should be allowed to join the proceedings from the date when the ex-parte order was set aside and should not be allowed to join the proceedings right from the beginning. In the partition case between the parties, the petitioner has purchased 1 kanal 3 marlas of land and mutation had also been sanctioned. The petitioner wanted a separate khewat made qua this land.

In the light of the aforementioned facts, the Commissioner has rightly ordered that the proposed mode of partition should be made *de novo*. Costs of Rs.4000/- was imposed on respondent No.5 also and the matter was ordered to be remanded. These orders were confirmed by the Financial Commissioner.

As respondent No.5 had become owner of 1 kanal 3 marlas of land with 22/17 share in khewat No.261, therefore, he has to be given his share. The ex-parte proceedings initiated against him have rightly been set aside and the mode of partition has been ordered to be prepared afresh. There is no material and irregularity in the impugned orders and accordingly, the writ petition is dismissed.

(ASHUTOSH MOHUNTA)
JUDGE

September 25, 2006
Gulati

(NIRMAL YADAV)
JUDGE